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Transmittal Number: 8689142

Date: 04/30/2011

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Entity:	Zimmer Holdings, Inc.
Entity I.D. Number:	2452402
Entity Served:	Zimmer Holdings, Inc.
Title of Action:	Gary Voss vs. Zimmer Holdings, Inc.
Document(s) type:	Summons/Complaint
Nature of Action:	Product Liability
Court/Agency:	Salt Lake County Third Judicial District Court, Utah
Case/Reference No:	110906195
Jurisdiction Served:	Indiana
Date Served on CSC:	04/29/2011
Answer or Appearance Due:	30 Days
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Jeffrey D. Eisenberg
801-366-9100

Primary Contact:

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Zimmer Holdings, Inc.

Copy of transmittal only provided to:

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Byron Hayes

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FILED
Third Judicial District Court

MAR 16 2011

By SL SALT LAKE COUNTY

Attorneys for Plaintiffs

BEFORE THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, UTAH

610
GARY VOSS and SHIRLEY VOSS,

Plaintiffs,

vs.

ZIMMER HOLDINGS, INC., DEPUY, INC.,
DEPUY INTERNATIONAL, DEPUY
ORTHOPEADICS, INC., JOHNSON &
JOHNSON, INC., and JOHN DOES I-X,

Defendants.

COMPLAINT AND
JURY DEMAND

Case No.: 110906195
Judge: Iwasaki

The Plaintiffs complain of the Defendants and allege for their causes of action against Defendants as follows:

PARTIES, JURISDICTION, & VENUE

1. Plaintiffs GARY VOSS and SHIRLEY VOSS are husband and wife and are residents of Tremonton, Box Elder County, Utah.
2. The Defendant Zimmer Holdings, Inc. (hereafter "Zimmer") is a Delaware corporation with its principal place of business in Indiana, which designs, manufactures and/or sells medical devices for sale in the State of Utah and specifically designed, manufactured and/or

sold the medical device subject of this Complaint.

3. The Defendant Depuy, Inc. (hereafter "Depuy Companies") is an Indiana corporation with its principal place of business in Warsaw, Indiana, which designs, manufactures and/or sells medical devices for sale in the State of Utah and specifically designed, manufactured and/or sold the medical device or parts thereof which is subject of this Complaint. It is believed that Defendant Depuy, Inc. is a subsidiary of Defendant Johnson and Johnson.

4. The Defendant Depuy International (hereafter "Depuy Companies") is believed to be a subsidiary of Depuy, Inc. an Indiana corporation with its principal place of business in Warsaw, Indiana, which designs, manufactures and/or sells medical devices for sale in the State of Utah and specifically designed, manufactured and/or sold the medical device or parts thereof which is subject of this Complaint.

5. The Defendant Depuy Orthopedics, Inc. (hereafter "Depuy Companies") is believed to be a subsidiary of Depuy, Inc. an Indiana corporation with its principal place of business in Warsaw, Indiana, which designs, manufactures and/or sells medical devices for sale in the State of Utah and specifically designed, manufactured and/or sold the medical device or parts thereof which is subject of this Complaint.

6. Defendant Johnson & Johnson, Inc ("Defendant Johnson" or "Johnson") is a New Jersey corporation which does business in Utah, and which regularly causes its products to be sold in Salt Lake County, State of Utah.

7. John Does I-X were also involved in the design, manufacture and/or sale of the medical device subject of this Complaint.

8. Venue is properly placed before this Court pursuant to Utah Code Ann. § 78-13-7

and Utah Code Ann. § 63-30d-502.

9. Jurisdiction is properly placed before this Court pursuant to Utah Code Ann. § 78-27-24 and Utah Code Ann. § 63-30d-501.

GENERAL ALLEGATIONS

10. On or about October 11, 2006, Plaintiff Gary Voss underwent a right total knee arthroplasty at the Cache Valley Specialty Hospital wherein he was fitted with a Zimmer LPS Knee, cemented 38x9 mm all-polyethylene patella component and related parts (hereafter collectively referred to as the "Device"). It is believed that all Defendants took part in the designed, manufacture and/or selling of the medical device or parts thereof.

11.. On or about March 23, 2009, Plaintiff Gary Voss was required to undergo revision of the Zimmer LPS Knee, cemented 38x9 mm all-polyethylene patella component of right total knee arthroplasty due to the failure of the Device; and he is still undergoing medical treatment, and has suffered and will continue to suffer restrictions and limitations on his activities, pain, suffering and mental distress.

12. During the course of the March 23, 2009 revision of the Zimmer LPS Knee, cemented 38x9 mm all-polyethylene patella component of right total knee arthroplasty, it was discovered that the Device had failed and was defective.

13. As a result of the Plaintiff failure of the Device, Plaintiff Gary Voss has been unable to continue to provide Plaintiff Shirley Voss with such care, companionship, support and affection as to which she was previously accustomed.

FIRST CAUSE OF ACTION – NEGLIGENCE

14. Plaintiffs incorporate all preceding paragraphs herein and further allege the

following:

15. The Defendants were negligent in its acts or omissions, including but not limited to the following:

- A. Designing, manufacturing and/or selling the Device;
- B. The composition, manufacture or fabrication of the Device;
- C. Failing to provide adequate warnings to the medical community and healthcare providers who would be implanting the Device in patients and as to follow-up patient care and in failing to adequately warning the Plaintiff, Gary Voss, of the defective nature of the Device and risks associated therewith.

16. As a direct and proximate cause of Defendants' negligence, the Plaintiff Gary Voss has suffered damages, among which are the following:

- A. Non-economic general damages, including pain, suffering, loss or reduction of mobility and function of his extremities, loss of enjoyment of life; and
- B. Economic special damages, including the incurrence of medical, hospital, therapy and other health care related services, and increased cost of home assistance for the Plaintiff Gary Voss.

SECOND CAUSE OF ACTION – BREACH OF WARRANTY

17. Plaintiffs incorporate all preceding paragraphs herein and further allege the following:

18. The Defendants expressly and/or impliedly warranted that the Device was safe,

merchantable, and fit for its intended use. The Defendants breached their warranties to Plaintiff Gary Voss because said Device was defective, not of merchantable quality, unfit for its intended uses and purposes and/or was unreasonably dangerous.

19. Plaintiff Gary Voss suffered personal injury as the direct and proximate result of reliance on said warranties and as the direct and proximate result of the breaches of said warranties by Defendants.

20. As a proximate cause of the Defendants' breach of warranty, the Plaintiff Gary Voss has suffered damages, among which are the following:

- A. General damages, including pain, suffering, loss or reduction of mobility and function of his extremities, loss of enjoyment of life; and
- B. Special damages, including the incurrence of medical, hospital, therapy and other health care related services, increased cost of home assistance for the Plaintiff Gary Voss.

THIRD CAUSE OF ACTION – STRICT LIABILITY

21. Plaintiffs incorporate all preceding paragraphs herein and further allege the following:

22. The Defendants are engaged in the business which included the design, manufacture and sale of the Device and products similar to it. When sold, the Device was in a defective condition unreasonably dangerous to foreseeable recipients of the Device.

23. Said defective and dangerous condition proximately caused Plaintiff Gary Voss's injuries while the Device was being used for its ordinary intended purposes and in an intended and foreseeable manner. The injuries suffered by Plaintiff Gary Voss were the direct and

proximate result of the sale by the Defendants of said defective and unreasonably dangerous Device.

24. As a proximate cause of each of the Defendants' breach of strict liability, the Plaintiff Gary Voss has suffered damages, among which are the following:

- A. General damages, including pain, suffering, loss or reduction of mobility and function of his extremities, loss of enjoyment of life; and
- B. Special damages, including the incurrence of medical, hospital, therapy and other health care related services, increased cost of home assistance for the Plaintiff Gary Voss.

FOURTH CAUSE OF ACTION – LOSS OF CONSORTIUM

25. Plaintiffs incorporate all preceding paragraphs herein and further allege the following:

26. At all relevant times, Plaintiff Gary Voss was married to Plaintiff Shirley Voss.

27. As a result of the Defendants' negligent acts or omissions and the defective Device, Plaintiff Gary Voss has been unable to continue to provide Plaintiff Shirley Voss with the care, companionship, support and affection as to which she was previously accustomed.

28. As a direct and proximate result of the injuries caused by the Defendants, Plaintiffs are entitled to past and future damages for mental anguish, loss of society, companionship, comfort and protection, as well as loss of marital care and attention.

29. As a proximate cause of the Defendants' negligence, the Plaintiff Shirley Voss has suffered damages, among which are the following:

- A. General damages, including mental anguish, loss of society,

companionship, comfort and protection, as well as loss of marital care and attention; and

- B. Special damages, including the incurrence of increased cost of home and health care services, medical, hospital, therapy and other health care related services for the Plaintiff Gary Voss and his wife, Shirley Voss.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs hereby demand judgment against each of the Defendants as follows:

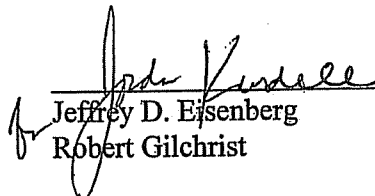
1. For a reasonable sum as non-economic general damages for the pain, suffering, loss or reduction of mobility and function of Plaintiff Gary Voss's extremities and loss of enjoyment of life, in an amount to be determined at trial;
2. For compensation of economic special damages, in an amount to be determined at trial;
3. For damages for loss of consortium, as to the Plaintiff Shirley Voss;
4. For Plaintiffs' costs incurred herein;
5. For prejudgment interest and post-judgment interest, according to law;
6. And for such other and further relief as the Court deems proper under the circumstances.

JURY DEMAND

Plaintiffs hereby demand a jury trial in this case pursuant to Rule 38(b) Utah Rules of Civil Procedure. The requisite jury fee is submitted herewith.

DATED this 15 day of March, 2011.

EISENBERG & GILCHRIST



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